(RSRTC Vs. Shabbir Hussain & Anr.)
S.B . CIVIL MISC. APPEAL NO.1467/2007.

Date : 25.04.2007

HON'BLE MR. P.B.MAJMUDAR, J.

Mr. PK Lohra, for the appellant.

By filing this appeal under Section 173 of the Motor Vehicles Act, 1988, the appellant RSRTC has challenged the judgment and award passed by the Motor Accident Claims Tribunal, Nathdhwara in MACT Case No. 108/2004 by which the Tribunal has awarded Rs. 57,400/- in favour of claimant-respondent No.1 as compensation.

It is the case of claimant respondent No.1 that on the relevant date i.e. 5.9.2004 at 4.45 a.m., truck No. RJ27-G-0738 was proceeding towards Udaipur from Nathdwara on National Highway No.8 and at that time, a bus of appellant Corporation bearing No. RJ14-1P-3307 coming from opposite side collided with the truck which resulted in heavy damage to the truck. It is the case of claimant respondent that he was owner of the truck in question and because of the accident, his truck was totally damaged. It is also the case of said claimant that the accident occurred due to rash and negligent driving of the bus driver. The claim was laid to the tune of Rs. 2,00,000/- for causing damage to the truck. The said claim was resisted by the present

appellant on various grounds.

The learned Tribunal after considering the pleadings and evidence on record framed various issues for consideration and after considering the various documents Rs. 57,400/- was awarded in favour of claimant. It is the aforesaid award which is impugned at the instance of the appellant Corporation.

I have heard the learned counsel for the appellant and also gone through the reasoning given by the learned Tribunal.

In my view, the Tribunal has rightly arrived at a conclusion that the bus was dirven rashly and negligently by the driver of the Bus. The learned counsel for the apellant is also not in a position to attack the said finding about negligence.

The learned Triubnal has considered the question about damage to the vehicle by considering the evidence on record and it cannot be said that by arriving at the figure regarding damage to the vehicle, the learned Tribunal has committed any error of law or of facts. In my view, the finding of fact arrived at by the Tribunal is correct. The Tribunal has also considered the report of surveyour and considering the fact that vehicle was about 6 years old, the Tribunal after arriving at a figure of Rs. 58,360/- deducted 10% from the same and has awarded Rs. 52,400/-

towards damage to the vehicle and awarded Rs. 5,000/- on the head of "loss of business".

Considering the reasoning of the Tribunal, it cannot be said that the Tribunal has committed any error in arriving at the aforesaid figure. The Tribunal after considering the evidence on record has reached to a correct finding of fact which in my opinion is not required to be interfered with by this Court. The appeal is therefore, devoid of merit and is accordingly dismissed in limine.

(P.B.MAJMUDAR), J.

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